

FEB 15 2018

JULIA C. DUDLEY, CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

UNITED STATES OF AMERICA

Case No. 4:14-cr-00003-1

v.

MEMORANDUM OPINION

JOSE DEJESUS VALASQUEZ,
Petitioner.

By: Hon. Jackson L. Kiser
Senior United States District Judge

Jose Dejesus Valasquez, a federal inmate proceeding pro se, had filed a document that the court construed as a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. The court gave Petitioner the notice required by Federal Rule of Civil Procedure 11 and directed him to correct the deficiency by filing a completed § 2255 form. Petitioner has complied, arguing that the United States Sentencing Commission has passed a "compassionate release guideline" that will be effective in 2018.

Records indicate that the court already dismissed (Dkt. No. 222) a prior § 2255 motion (Dkt. Nos. 217, 220). Thus, the § 2255 motion is a second or subsequent motion under 28 U.S.C. § 2255(h). Cf. United States v. Hairston, 754 F.3d 258, 262 (4th Cir. 2014). The court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that a claim in the motion meets certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not submitted any evidence of having obtained that certification, I dismiss the § 2255 motion without prejudice as successive. Based upon the court's finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c) and Slack v. McDaniel, 529 U.S. 473, 484 (2000), a certificate of appealability is denied.

ENTER: This 15th day of February, 2018.

Jackson L. Kiser
Senior United States District Judge